

§ 163A-1411. Definitions.

When used in this Article:

- (1) The term "affiliated party committee" means a General Assembly affiliated party committee as established by G.S. 163A-1416 or Council of State affiliated party committee as established by G.S. 163A-1417.
- (3) The term "board" means the State Board with respect to all candidates for State, legislative, and judicial offices and the county board of elections with respect to all candidates for county and municipal offices. The term means the State Board with respect to all statewide referenda and the county board of elections conducting all local referenda.
- (5) The term "broadcasting station" means any commercial radio or television station or community antenna radio or television station. Special definitions of "radio" and "television" that apply only in Part 2 of this Article are set forth in G.S. 163A-1475.
- (7) The term "business entity" means any partnership, joint venture, joint-stock company, company, firm, or any commercial or industrial establishment or enterprise.
- (9) The term "candidate" means any individual who, with respect to a public office listed in G.S. 163A-1411(80), has taken positive action for the purpose of bringing about that individual's nomination, retention, or election to public office. Examples of positive action include any of the following:
 - a. Filing a notice of candidacy, filing a notice to be retained, or a petition requesting to be a candidate.
 - b. Being certified as a nominee of a political party for a vacancy.
 - c. Otherwise qualifying as a candidate in a manner authorized by law.
 - d. Making a public announcement of a definite intent to run for public office in a particular election.
 - e. Receiving funds or making payments or giving the consent for anyone else to receive funds or transfer anything of value for the purpose of bringing about that individual's nomination or election to office. Transferring anything of value includes incurring an obligation to transfer anything of value.

Status as a candidate for the purpose of this Article continues if the individual is receiving contributions to repay loans or cover a deficit or is making expenditures to satisfy obligations from an election already held. Special definitions of "candidate" and "candidate campaign committee" that apply only in Part 2 of this Article are set forth in G.S. 163A-1475.

- (11) The term "communications media" or "media" means broadcasting stations, carrier current stations, newspapers, magazines, periodicals, outdoor advertising facilities, billboards, newspaper inserts, and any person or individual whose business is polling public opinion, analyzing or predicting voter behavior or voter preferences. Special definitions of "print media," "radio," and "television" that apply only in Part 2 of this Article are set forth in G.S. 163A-1475.
- (13) The terms "contribute" or "contribution" mean any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, made to, or in coordination with, a candidate to support or oppose the nomination or election of one or more clearly identified candidates, to a political committee, to a political party, to an affiliated party committee, or to a

referendum committee, whether or not made in an election year, and any contract, agreement, or other obligation to make a contribution. An expenditure forgiven by a person or entity to whom it is owed shall be reported as a contribution from that person or entity. These terms include, without limitation, such contributions as labor or personal services, postage, publication of campaign literature or materials, in-kind transfers, loans or use of any supplies, office machinery, vehicles, aircraft, office space, or similar or related services, goods, or personal or real property. These terms also include, without limitation, the proceeds of sale of services, campaign literature and materials, wearing apparel, tickets or admission prices to campaign events such as rallies or dinners, and the proceeds of sale of any campaign-related services or goods. Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, political committee, or referendum committee. The term "contribution" does not include an "independent expenditure." If:

- a. Any individual, person, committee, association, or any other organization or group of individuals, including but not limited to, a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) makes, or contracts to make, any disbursement for any electioneering communication, as defined in this section; and
- b. That disbursement is coordinated with a candidate, an authorized political committee of that candidate, a State or local political party or committee of that party, an affiliated party committee, or an agent or official of any such candidate, party, or committee

that disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication or that candidate's party and as an expenditure by that candidate or that candidate's party.

(14) – (19) [Reserved.]

(20) The term "coordinated expenditure" means an expenditure that is made in concert or cooperation with, or at the request or suggestion of, a candidate, a candidate campaign committee as defined in G.S. 163A-1475(3), the agent of the candidate, or the agent of the candidate campaign committee. An expenditure for the distribution of information relating to a candidate's campaign, positions, or policies, that is obtained through publicly available resources, including a candidate campaign committee, is not a coordinated expenditure if it is not made in concert or cooperation with, or at the request or suggestion of, a candidate, the candidate campaign committee, the agent of the candidate, or the agent of the candidate campaign committee.

(22) The term "coordination" means in concert or cooperation with, or at the request or suggestion of.

(24) The term "corporation" means any corporation established under either domestic or foreign charter, and includes a corporate subsidiary and any business entity in which a corporation participates or is a stockholder, a partner or a joint venturer. The term applies regardless of whether the corporation does business in the State of North Carolina.

(26) The term "costs of collection" means monies spent by the State Board in the collection of the penalties levied under this Article to the extent the costs do

not constitute more than fifty percent (50%) of the civil penalty. The costs are presumed to be ten percent (10%) of the civil penalty unless otherwise determined by the State Board based on the records of expenses incurred by the State Board for its collection procedures.

- (28) The term "day" means calendar day.
- (30) The term "election" means any general or special election, a first or second primary, a run-off election, or an election to fill a vacancy. The term "election" shall not include any local or statewide referendum.
- (32) The term "election cycle" means the period of time from January 1 after an election for an office through December 31 after the election for the next term of the same office. Where the term is applied in the context of several offices with different terms, "election cycle" means the period from January 1 of an odd-numbered year through December 31 of the next even-numbered year.
- (33) – (40) [Reserved.]
- (41) The term "electioneering communication" means any broadcast, cable, or satellite communication, or mass mailing, or telephone bank that has all the following characteristics:
 - a. Refers to a clearly identified candidate for elected office.
 - b. In the case of the general election in November of the even-numbered year is aired or transmitted after September 7 of that year, and in the case of any other election is aired or transmitted within 60 days of the time set for absentee voting to begin pursuant to G.S. 163A-1300, 163A-1301, 163A-1302, 163A-1303, and 163A-1304 in an election for that office.
 - c. May be received by either:
 - 1. 50,000 or more individuals in the State in an election for statewide office or 7,500 or more individuals in any other election if in the form of broadcast, cable, or satellite communication.
 - 2. 20,000 or more households, cumulative per election, in a statewide election or 2,500 households, cumulative per election, in any other election if in the form of mass mailing or telephone bank.
- (43) The term "electioneering communication" does not include any of the following:
 - a. A communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless those facilities are owned or controlled by any political party, affiliated party committee, political committee, or candidate.
 - b. A communication that constitutes an expenditure or independent expenditure under this Article.
 - c. A communication that constitutes a candidate debate or forum conducted pursuant to rules adopted by the Board or that solely promotes that debate or forum and is made by or on behalf of the person sponsoring the debate or forum.
 - d. A communication made while the General Assembly is in session which, incidental to advocacy for or against a specific piece of legislation pending before the General Assembly, urges the audience to communicate with a member or members of the General Assembly

concerning that piece of legislation or a solicitation of others as defined in G.S. 163A-250(a)(36) properly reported under Article 8 of this Chapter.

- e. A communication that meets all of the following criteria:
 - 1. Does not mention any election, candidacy, political party, opposing candidate, or voting by the general public.
 - 2. Does not take a position on the candidate's character or qualifications and fitness for office.
 - 3. Proposes a commercial transaction.
 - f. A public opinion poll conducted by a news medium, as defined in G.S. 8-53.11(a)(3), conducted by an organization whose primary purpose is to conduct or publish public opinion polls, or contracted for by a person to be conducted by an organization whose primary purpose is to conduct or publish public opinion polls. This sub-subdivision shall not apply to a push poll. For the purpose of this sub-subdivision, "push poll" shall mean the political campaign technique in which an individual or organization attempts to influence or alter the view of respondents under the guise of conducting a public opinion poll.
 - g. A communication made by a news medium, as defined in G.S. 8-53.11(a)(3), if the communication is in print.
- (45) – (48) [Reserved.]
- (49) The term "enforcement costs" means salaries, overhead, and other monies spent by the State Board in the enforcement of the penalties provisions of this Article, including the costs of investigators, attorneys, travel costs for State Board employees and its attorneys, to the extent the costs do not constitute more than fifty percent (50%) of the sum levied for the enforcement costs and civil late penalty.
- (51) The terms "expend" or "expenditure" mean any purchase, advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, whether or not made in an election year, and any contract, agreement, or other obligation to make an expenditure, to support or oppose the nomination, election, or passage of one or more clearly identified candidates, or ballot measure. An expenditure forgiven by a person or entity to whom it is owed shall be reported as a contribution from that person or entity. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. The term "expenditure" also includes any payment or other transfer made by a candidate, political committee, or referendum committee.
- (53) The term "independently expend" or "independent expenditure" means an expenditure to support or oppose the nomination or election of one or more clearly identified candidates that is not a coordinated expenditure. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. A contribution is not an independent expenditure. As applied to referenda, the term "independent expenditure" applies if consultation or coordination does not take place with a referendum committee that supports a ballot measure the expenditure supports, or a referendum committee that opposes the ballot measure the expenditure opposes.

- (55) The term "individual" means a single individual or more than one individual.
- (57) The term "insurance company" means any person whose business is making or underwriting contracts of insurance, and includes mutual insurance companies, stock insurance companies, and fraternal beneficiary associations.
- (59) The term "labor union" means any union, organization, combination or association of employees or workmen formed for the purposes of securing by united action favorable wages, improved labor conditions, better hours of labor or work-related benefits, or for handling, processing or righting grievances by employees against their employers, or for representing employees collectively or individually in dealings with their employers. The term includes any unions to which Article 10, Chapter 95 applies.
- (60) – (69) [Reserved.]
- (70) The term "mass mailing" means any mailing by United States mail or facsimile to 20,000 or more households, cumulative per election, in a statewide election or 2,500 households, cumulative per election, in any other election.
- (72) The term "person" means any business entity, corporation, insurance company, labor union, or professional association.
- (74) The term "political committee" means a combination of two or more individuals, such as any person, committee, association, organization, or other entity that makes, or accepts anything of value to make, contributions or expenditures and has one or more of the following characteristics:
 - a. Is controlled by a candidate;
 - b. Is a political party or executive committee of a political party or is controlled by a political party or executive committee of a political party;
 - c. Is created by a corporation, business entity, insurance company, labor union, or professional association pursuant to G.S. 163A-1436(d); or
 - d. Has the major purpose to support or oppose the nomination or election of one or more clearly identified candidates; [or]
 - e. Is an affiliated party committee.

Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party.

If the entity qualifies as a "political committee" under sub-subdivision a., b., c., or d. of this subdivision, it continues to be a political committee if it receives contributions or makes expenditures or maintains assets or liabilities. A political committee ceases to exist when it winds up its operations, disposes of its assets, and files its final report.

The term "political committee" includes the campaign of a candidate who serves as his or her own treasurer.

Special definitions of "political action committee" and "candidate campaign committee" that apply only in Part 2 of this Article are set forth in G.S. 163A-1475.
- (76) The term "political party" means any political party organized or operating in this State, whether or not that party is recognized under the provisions of G.S. 163A-950. A special definition of "political party organization" that applies only in Part 2 of this Article is set forth in G.S. 163A-1475. An

affiliated party committee is deemed a political party for this Article as set forth in G.S. 163A-1416 and G.S. 163A-1417.

- (78) The term "professional association" means any trade association, group, organization, association, or collection of persons or individuals formed for the purposes of advancing, representing, improving, furthering or preserving the interests of persons or individuals having a common vocation, profession, calling, occupation, employment, or training.
- (80) The term "public office" means any office filled by election by the people on a statewide, county, municipal or district basis, and this Article shall be applicable to such elective offices whether the election therefor is partisan or nonpartisan.
- (82) The term "referendum" means any question, issue, or act referred to a vote of the people of the entire State by the General Assembly, a unit of local government, or by the people under any applicable local act and includes constitutional amendments and State bond issues. The term "referendum" includes any type of municipal, county, or special district referendum and any initiative or referendum authorized by a municipal charter or local act. A recall election shall not be considered a referendum within the meaning of this Article.
- (84) The term "referendum committee" means a combination of two or more individuals such as a committee, association, organization, or other entity or a combination of two or more business entities, corporations, insurance companies, labor unions, or professional associations such as a committee, association, organization, or other entity the primary purpose of which is to support or oppose the passage of any referendum on the ballot. If the entity qualifies as a "referendum committee" under this subdivision, it continues to be a referendum committee if it receives contributions or makes expenditures or maintains assets or liabilities. A referendum committee ceases to exist when it winds up its operations, disposes of its assets, and files its final report.
- (85) – (92) [Reserved.]
- (93) The term "telephone bank" means telephone calls that are targeted to the relevant electorate, except when those telephone calls are made by volunteer workers, whether or not the design of the telephone bank system, development of calling instructions, or training of volunteers was done by paid professionals.
- (95) The term "treasurer" means an individual appointed by a candidate, political committee, or referendum committee as provided in G.S. 163A-1412 or G.S. 163A-1496. (1973, c. 1272, s. 1; 1975, c. 798, ss. 5, 6; 1979, c. 500, s. 1; c. 1073, ss. 1-3, 19, 20; 1981, c. 837, s. 1; 1983, c. 331, s. 6; 1985, c. 352, ss. 1-3; 1997-515, ss. 4(a)-(c), 7(b)-(d); 1999-31, ss. 1(a), (b), 2(a)-(c), 3, 4(a); 1999-424, s. 6(a), (b); 2002-159, s. 55(n); 2003-278, s. 5; 2004-125, s. 3; 2004-127, s. 15; 2004-203, s. 12(b); 2005-430, s. 10; 2006-264, s. 23; 2007-391, s. 3; 2008-150, s. 6(a); 2008-187, s. 33(a); 2009-534, ss. 1, 3(a), (b); 2010-170, s. 1; 2011-31, s. 20; 2013-381, s. 50.1; 2015-66, s. 8(a); 2015-258, ss. 3(b), (b1); 2015-264, ss. 81(c), (d); 2017-6, s. 3.)